

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**HOUSE BILL 2080\***  
**PROPOSED COMMITTEE SUBSTITUTE H2080-CSRC-99 [v.11]**

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Short Title: Strengthen LMEs and State MH/DD/SAS.

(Public)

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Sponsors:

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Referred to:

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May 18, 2006

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY AND STRENGTHEN THE ROLE OF LOCAL  
3 MANAGEMENT ENTITIES AND TO STRENGTHEN STATE LEADERSHIP  
4 FOR SYSTEM REFORM AS RECOMMENDED BY THE JOINT LEGISLATIVE  
5 OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL  
6 DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 122C-3 is amended by adding a new subdivision to read:  
9 **"§ 122C-3. Definitions.**

10 ~~As used in this Chapter, unless another meaning is specified or the context clearly~~  
11 ~~requires otherwise, the following terms have the meanings specified:~~The following  
12 definitions apply in this Chapter:

13 ...

14 (20b) "Local management entity" or "LME" means an area authority, county  
15 program, or consolidated human services agency. It is a collective term  
16 that refers to functional responsibilities rather than governance  
17 structure."

18 **SECTION 2.** G.S. 122C-111 reads as rewritten:  
19 **"§ 122C-111. Administration.**

20 The Secretary shall administer and enforce the provisions of this Chapter and the  
21 rules of the Commission and shall operate State facilities. An area director or program  
22 director shall (i) manage the public mental health, developmental disabilities, and  
23 substance abuse system for ~~administer the programs of the area authority or county~~  
24 ~~program, as applicable, program according to the local business plan, and (ii) enforce~~  
25 applicable State laws, rules of the Commission, and rules of the Secretary. The  
26 Secretary in cooperation with area and county program directors and State facility  
27 directors shall provide for the coordination of public services between area authorities,  
28 county programs, and State facilities. The area authority or county program shall

1 monitor the provision of mental health, developmental disability, and substance abuse  
2 services for compliance with the law, which monitoring shall not supersede or duplicate  
3 the regulatory authority or functions of agencies of the Department."

4 **SECTION 3.** G.S. 122C-115.2(a) reads as rewritten:

5 "**§ 122C-115.2. Business- LME business plan required; content, process, certification.**

6 (a) Every county, through an area authority or county program, shall provide for  
7 the development, review, and approval of a an LME business plan for the management  
8 and delivery of mental health, developmental disabilities, and substance abuse services.  
9 A-An LME business plan shall provide detailed information on- regarding how the area  
10 authority or county program will meet State standards, laws, and rules for ensuring  
11 quality mental health, developmental disabilities, and substance abuse services,  
12 including outcome measures for evaluating program effectiveness. The business plan  
13 shall be in effect for at least three State fiscal years."

14 **SECTION 4.** Article 4 of Chapter 122C is amended by adding a new section  
15 to read:

16 "**§ 122C-115.4. Functions of local management entities.**

17 (a) Local management entities are responsible for the management and oversight  
18 of the public system of mental health, developmental disabilities, and substance abuse  
19 services at the community level. An LME shall plan, develop, implement, and monitor  
20 services within a specified geographic area to ensure expected outcomes for consumers  
21 within available resources.

22 (b) The primary functions of an LME include all of the following:

- 23 (1) Access for all citizens to the core services described in G.S. 122C-2. In  
24 particular, this shall include the implementation of a 24-hour a day,  
25 seven-day a week screening, triage, and referral process and a uniform  
26 portal of entry into care.
- 27 (2) Provider endorsement, monitoring, technical assistance, capacity  
28 development and quality control. An LME may remove a provider's  
29 endorsement if a provider that fails to meet defined quality criteria or  
30 fails to provide required data to the LME.
- 31 (3) Utilization management, utilization review and determination of the  
32 appropriate level and intensity of services including the review and  
33 approval of the person centered plans for consumers who receive  
34 State-funded services. Concurrent review of person centered plans for  
35 all consumers in the LME's catchment area who receive Medicaid  
36 funded services with authority by the LME to require revisions to  
37 previously authorized treatment plans for high risk or high cost  
38 consumers.
- 39 (4) Authorization of State psychiatric hospital and other State facility bed  
40 days, and authorization of services for recipients under a CAP-MR/DD  
41 waiver.
- 42 (5) Care coordination and quality management including direct monitoring  
43 of the effectiveness of the person centered plan, and initiation of  
44 modifications to a person centered plan in order to achieve better client

1 outcomes or to achieve similar outcomes at a reduced cost. Monitoring  
2 effectiveness shall include reviewing client outcomes data supplied by  
3 the provider, direct contact with consumers and review of consumer  
4 charts.

5 (6) Community collaboration and consumer affairs including a process to  
6 protect consumer rights, an appeals process and support of an effective  
7 consumer and family advisory committee.

8 (7) Financial management and accountability for the use of State and local  
9 funds, and information management for the delivery of publicly  
10 funded services.

11 (c) Subject to all applicable State and federal laws, an area authority, or county  
12 program or consolidated human services agency may contract with any public or private  
13 entity for the implementation of some or all of the LME functions articulated under  
14 subsection (b) of this section.

15 (d) Except as provided in G.S. 122C-142.1 and G.S. 122C-125, the Secretary  
16 may not remove from an LME any function enumerated under subsection (b) of this  
17 section unless the following applies:

18 (1) The LME fails during the previous three months to achieve a  
19 satisfactory outcome on any of the critical performance measures  
20 developed by the Secretary under G.S. 122C-112.1(33).

21 (2) The Secretary provides focused technical assistance to the LME in the  
22 implementation of the function. The assistance shall continue for at  
23 least twelve months or until the LME achieves a satisfactory outcome  
24 on the performance measure, whichever occurs first.

25 (3) If, after twelve months of receiving technical assistance from the  
26 Secretary the LME still fails to achieve a satisfactory outcome on the  
27 critical performance measure, the Secretary shall require the LME to  
28 enter into a contract with another LME to implement on behalf of the  
29 LME from which the function has been removed.

30 (e) The Commission shall adopt rules regarding the following matters:

31 (1) The definition of a high risk consumer. Until such time as the  
32 Commission adopts a rule under this subdivision, a high risk consumer  
33 means a person who has been assessed as needing emergent crisis  
34 services three or more times in the previous 12 months.

35 (2) The definition of a high cost consumer. Until such time as the  
36 Commission adopts a rule under this subdivision, a high cost consumer  
37 means a person whose treatment plan is expected to cost more than the  
38 median for all similar consumers.

39 (3) The notice and procedural requirements for removing one or more  
40 LME functions under subsection (d) of this section."

41 **SECTION 5.** Effective July 1, 2009, G.S. 122C-115.4(b) as enacted in  
42 Section 4 of this act reads as rewritten:

43 "(b) The primary functions of an LME include all of the following:

- (1) Access for all citizens to the core services described in G.S. 122C-2. In particular, this shall include the implementation of a 24-hour a day, seven-day a week screening, triage, and referral process and a uniform portal of entry into care.
- (2) Provider endorsement, monitoring, technical assistance, capacity development and quality control. An LME may remove a provider's endorsement if a provider that fails to meet defined quality criteria or fails to provide required data to the LME.
- (3) Utilization management, utilization review and determination of the appropriate level and intensity of services including the review and approval of the person centered plans for ~~consumers who receive State funded services. Concurrent review of person centered plans for all consumers in the LME's catchment area who receive Medicaid funded services with authority by the LME to require revisions to previously authorized treatment plans for high risk or high cost consumers.~~ all consumers.
- (4) Authorization of State psychiatric hospital and other State facility bed days, and authorization of services for recipients under a CAP-MR/DD waiver.
- (5) Care coordination and quality management including direct monitoring of the effectiveness of the person centered plan, and initiation of modifications to a person centered plan in order to achieve better client outcomes or to achieve similar outcomes at a reduced cost. Monitoring effectiveness shall include reviewing client outcomes data supplied by the provider, direct contact with consumers and review of consumer charts.
- (6) Community collaboration and consumer affairs including a process to protect consumer rights, an appeals process and support of an effective consumer and family advisory committee.
- (7) Financial management and accountability for the use of State and local funds, and information management for the delivery of publicly funded services.

**SECTION 6.** G.S. 122C-118.1(a) reads as rewritten:

**"§ 122C-118.1. Structure of area board.**

(a) An area board shall have no fewer than 11 and no more than 25 members. In a single-county area authority, the members shall be appointed by the board of county commissioners. Except as otherwise provided, in areas consisting of more than one county, each board of county commissioners within the area shall appoint one commissioner as a member of the area board. These members shall appoint the other members. The boards of county commissioners within the multicounty area shall have the option to appoint the members of the area board in a manner other than as required under this section by adopting a resolution to that effect. The boards of county commissioners in a multicounty area authority shall indicate in the business plan each board's method of appointment of the area board members in accordance with

1 G.S. 122C-115.2(b). These appointments shall take into account sufficient citizen  
2 participation, equitable representation of the disability groups, and equitable  
3 representation of participating counties. Individuals appointed to the board shall include  
4 an individual with financial ~~expertise or expertise~~, a county finance officer, an  
5 individual with expertise in management or business, and an individual representing the  
6 interests of children. A member of the board may be removed with or without cause by  
7 the initial appointing authority. Vacancies on the board shall be filled by the initial  
8 appointing authority before the end of the term of the vacated seat or within 90 days of  
9 the vacancy, whichever occurs first, and the appointments shall be for the remainder of  
10 the unexpired term.

11 **SECTION 7.** G.S. 122C-118.1(d) reads as rewritten:

12 "(d) Any member of an area board who is a county commissioner serves on the  
13 board in an ex officio capacity. The terms of county commissioners on an area board are  
14 concurrent with their terms as county commissioners. The terms of the other members  
15 on the area board shall be for ~~four~~ three years, except that upon the initial formation of  
16 an area board ~~one-fourth one-third~~ shall be appointed for one year, ~~one-fourth one-third~~  
17 for two years, ~~one-fourth for three years~~, and all remaining members for ~~four~~ three  
18 years. Members ~~other than county commissioners~~ shall not be appointed for more than  
19 two consecutive terms. Board members serving as of July 1, 2006, may remain on the  
20 board for one additional term."

21 **SECTION 8.** G.S. 122C-115.1(a) reads as rewritten:

22 "**§ 122C-115.1. County governance and operation of mental health, developmental**  
23 **disabilities, and substance abuse services program.**

24 (a) A county may operate a county program for mental health, developmental  
25 disabilities, and substance abuse services as a single county or, pursuant to Article 20 of  
26 Chapter 160A of the General Statutes, may enter into an interlocal agreement with one  
27 or more other counties for the operation of a multicounty program. An interlocal  
28 agreement shall provide for the following:

- 29 (1) Adoption and administration of the program budget in accordance with  
30 Chapter 159 of the General Statutes.
- 31 (2) Appointment of a program director to carry out the provisions of  
32 G.S. 122C-111 and duties and responsibilities delegated by the county.  
33 Except when specifically waived by the Secretary, the program  
34 director shall meet the following minimum qualifications:
  - 35 a. Masters degree,
  - 36 b. Related experience, and
  - 37 c. Management experience.
- 38 (3) A targeted minimum population of 200,000 or a targeted minimum  
39 number of five counties served by the program.
- 40 (4) Compliance with the provisions of this Chapter and the rules of the  
41 Commission and the Secretary.
- 42 (5) Written notification to the Secretary prior to the termination of the  
43 interlocal agreement.

- 1 (6) Appointment of an advisory committee. The interlocal agreement shall  
2 designate a county manager to whom the advisory committee shall  
3 report. The interlocal agreement shall also designate the appointing  
4 authorities. The appointing authorities shall make appointments that  
5 take into account sufficient citizen participation, equitable  
6 representation of the disability groups, and equitable representation of  
7 participating counties. At least fifty percent (50%) of the membership  
8 shall conform to the requirements provided in  
9 G.S. 122C-118.1(b)(1)-(4)-G.S. 122C-188.1."

10 **SECTION 9.** Effective January 1, 2007, G.S. 122C-115.1(a), as amended by  
11 Section 8 of this act reads as rewritten:

12 **"§ 122C-115.1. County governance and operation of mental health, developmental**  
13 **disabilities, and substance abuse services program.**

14 (a) A county may operate a county program for mental health, developmental  
15 disabilities, and substance abuse services as a single county or, pursuant to Article 20 of  
16 Chapter 160A of the General Statutes, may enter into an interlocal agreement with one  
17 or more other counties for the operation of a multicounty program. An interlocal  
18 agreement shall provide for the following:

- 19 (1) Adoption and administration of the program budget in accordance with  
20 Chapter 159 of the General Statutes.
- 21 (2) Appointment of a program director to carry out the provisions of  
22 G.S. 122C-111 and duties and responsibilities delegated by the county.  
23 Except when specifically waived by the Secretary, the program  
24 director shall meet all the following minimum qualifications:
- 25 a. Masters ~~degree, degree.~~  
26 b. Related ~~experience, and experience.~~  
27 c. Management experience.  
28 d. Any other qualifications required under the job classification  
29 adopted by the State Personnel Commission.
- 30 (3) A targeted minimum population of 200,000 or a targeted minimum  
31 number of five counties served by the program.
- 32 (4) Compliance with the provisions of this Chapter and the rules of the  
33 Commission and the Secretary.
- 34 (5) Written notification to the Secretary prior to the termination of the  
35 interlocal agreement.
- 36 (6) Appointment of an advisory committee. The interlocal agreement shall  
37 designate a county manager to whom the advisory committee shall  
38 report. The interlocal agreement shall also designate the appointing  
39 authorities. The appointing authorities shall make appointments that  
40 take into account sufficient citizen participation, equitable  
41 representation of the disability groups, and equitable representation of  
42 participating counties. The membership shall conform to the  
43 requirements provided in G.S. 122C-118.1."

1           **SECTION 10.** Effective January 1, 2007, G.S. 122C-115.1(f) reads as  
2 rewritten:

3           "(f) In a single-county program, the program director shall be appointed by the  
4 county manager. In a multicounty program, the program director shall be appointed in  
5 accordance with the terms of the interlocal agreement.

6           Except when specifically waived by the Secretary, the program director in a single  
7 county program shall meet all the following minimum qualifications:

8           (1) Masters degree.

9           (2) Related experience.

10          (3) Management experience.

11          (4) Any other qualifications required under the job classification adopted  
12 by the State Personnel Commission."

13           **SECTION 11.** Effective January 1, 2007, G.S. 122C-121(d) reads as  
14 rewritten:

15           "(d) Except when specifically waived by the Secretary, the area director shall meet  
16 all the following minimum qualifications:

17           (1) Masters ~~degree;~~ degree.

18           (2) Related ~~experience;~~ and experience.

19           (3) Management experience.

20           (4) Any other qualifications required under the job classification adopted  
21 by the State Personnel Commission."

22           **SECTION 12.** Effective July 1, 2007, G.S. 122C-115(a) reads as rewritten:

23           **"§ 122C-115. Duties of counties; appropriation and allocation of funds by counties**  
24 **and cities.**

25           (a) A county shall provide mental health, developmental disabilities, and  
26 substance abuse services through an area authority or through a county program  
27 established pursuant to G.S. 122C-115.1. The catchment area of an area authority or a  
28 county program shall contain either a minimum population of at least 200,000 or a  
29 minimum of six counties. To the extent this section conflicts with G.S. 153A-77(a), the  
30 provisions of G.S. 153A-77(a) control."

31           **SECTION 13.** Effective July 1, 2007, G.S. 122C-115.1(a), as amended by  
32 Sections 8 and 9 of this act, reads as rewritten:

33           **"§ 122C-115.1. County governance and operation of mental health, developmental**  
34 **disabilities, and substance abuse services program.**

35           (a) A county may operate a county program for mental health, developmental  
36 disabilities, and substance abuse services as a single county or, pursuant to Article 20 of  
37 Chapter 160A of the General Statutes, may enter into an interlocal agreement with one  
38 or more other counties for the operation of a multicounty program. An interlocal  
39 agreement shall provide for the following:

40           (1) Adoption and administration of the program budget in accordance with  
41 Chapter 159 of the General Statutes.

42           (2) Appointment of a program director to carry out the provisions of  
43 G.S. 122C-111 and duties and responsibilities delegated by the county.

1 Except when specifically waived by the Secretary, the program  
2 director shall meet all the following minimum qualifications:

- 3 a. Masters degree.
- 4 b. Related experience.
- 5 c. Management experience.
- 6 d. Any other qualifications required under the job classification  
7 adopted by the State Personnel Commission.

8 (3) ~~A targeted minimum population of 200,000 or a targeted minimum~~  
9 ~~number of five counties served by the program.~~

10 (4) Compliance with the provisions of this Chapter and the rules of the  
11 Commission and the Secretary.

12 (5) Written notification to the Secretary prior to the termination of the  
13 interlocal agreement.

14 (6) Appointment of an advisory committee. The interlocal agreement shall  
15 designate a county manager to whom the advisory committee shall  
16 report. The interlocal agreement shall also designate the appointing  
17 authorities. The appointing authorities shall make appointments that  
18 take into account sufficient citizen participation, equitable  
19 representation of the disability groups, and equitable representation of  
20 participating counties. The membership shall conform to the  
21 requirements provided in G.S. 122C-118.1."

22 **SECTION 14.** G.S. 122C-117(c) reads as rewritten:

23 "(c) Within 30 days of the end of each quarter of the fiscal year, the area director  
24 and finance officer of the area authority shall provide the quarterly report of the area  
25 authority to the county finance officer. ~~to each member of the board of county~~  
26 ~~commissioners the quarterly report of the area authority.~~ The county finance officer  
27 shall provide the quarterly report to the board of county commissioners at next regularly  
28 scheduled meeting of the board. The clerk to the board of commissioners shall notify  
29 the area director and the county finance officer if the quarterly report required by this  
30 subsection has not been submitted within the required period of time. This information  
31 shall be presented in a format prescribed by the county. At least twice a year, this  
32 information shall be presented in person and shall be read into the minutes of the  
33 meeting at which it is presented. In addition, the area director or finance officer of the  
34 area authority shall provide to the board of county commissioners ad hoc reports as  
35 requested by the board of county commissioners."

36 **SECTION 15.** Article 23 of Chapter 153A of the General Statutes is  
37 amended by adding the following new section to read:

38 **"§ 153A-453. Quarterly reports of Mental Health, Developmental Disabilities, and**  
39 **Substance Abuse Services area authority or county program.**

40 Quarterly reports by the area director and finance officer of Mental Health,  
41 Developmental Disabilities, and Substance Abuse Services area authorities or county  
42 programs shall be submitted to the county finance officer as provided under  
43 G.S. 122C-117(c)."



**SECTION 16.** In order to increase the availability of providers to target population consumers, a county may be a qualified provider if it meets the provider qualifications as defined by rules adopted by the Secretary. A county may, under Article 20 of Chapter 160A of the General Statutes, enter into an interlocal agreement with one or more other counties to operate as a qualified provider.

The Commission shall adopt rules to ensure that the authority by counties under this section shall not interfere with fair competition among private providers in the counties where this authority is utilized. The Department shall review the effect of this Section and submit a report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services by December 1, 2009. The Committee shall make recommendations to the 2009 General Assembly regarding whether to make modify or extent the authority under this section.

**SECTION 17.** G.S. 122C-112.1(a) reads as rewritten:

**"§ 122C-112.1. Powers and duties of the Secretary.**

(a) The Secretary shall do all of the following:

- (1) Oversee development and implementation of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (2) Enforce the provisions of this Chapter and the rules of the Commission and the Secretary.
- (3) Establish a process and criteria for the submission, review, and approval or disapproval of LME business plans submitted by area authorities and ~~counties~~ county programs for the management ~~and provision~~ of mental health, developmental disabilities, and substance abuse services.
- (4) Adopt rules specifying the content and format of LME business plans.
- (5) Review LME business plans and, upon approval of the ~~business plan~~, certify the submitting area authority or county program to ~~provide~~ manage the delivery of mental health, developmental disabilities, and substance abuse ~~services~~ services in the applicable catchment area.
- (6) Establish comprehensive, cohesive oversight and monitoring procedures and processes to ensure continuous compliance by area authorities, county programs, and all providers of public services with State and federal policy, law, and standards. ~~Procedures~~ The procedures shall include the development and use of critical performance measures and report cards for each area authority and county program.
- (7) Conduct regularly scheduled monitoring and oversight of area authority, county programs, and all providers of public services. Monitoring and oversight shall ~~include~~ be used to assess compliance with the program ~~LME business plan, plan and implementation of core administrative functions, and fiscal and administrative practices and~~ LME functions. Monitoring shall also address ~~include the examination of LME and provider performance on outcome measures, measures including adherence to best practices, the assessment of consumer~~

- 1 satisfaction, and the review of client rights complaints, and adherence  
2 to best practices complaints.
- 3 (8) Make findings and recommendations based on information and data  
4 collected pursuant to subdivision (7) of this subsection and submit  
5 these findings and recommendations to the applicable area authority  
6 board, county program director, board of county commissioners,  
7 providers of public services, and to the Local Consumer Advocacy  
8 Office.
- 9 (9) ~~Assist~~ Provide ongoing and focused technical assistance to area  
10 authorities and county programs in the implementation of the LME  
11 functions and the establishment and operation of community-based  
12 programs. The technical assistance required under this subdivision  
13 includes, but is not limited to the technical assistance required under  
14 G.S. 122C-115.4(d)(2). The Secretary shall include in the State Plan a  
15 mechanism for monitoring the Department's success in implementing  
16 this duty and the progress of area authorities and county programs in  
17 achieving these functions.
- 18 (10) Operate State facilities and adopt rules pertaining to their operation.
- 19 (11) Develop a unified system of services provided ~~in area, county, and at~~  
20 the community level, by State facilities, and by providers enrolled or  
21 under a contract with the ~~State~~ State and an area authority or county  
22 program.
- 23 (12) Adopt rules governing the expenditure of all funds for mental health,  
24 developmental disabilities, and substance abuse programs and services.
- 25 (13) Adopt rules to implement the appeal procedure authorized by  
26 G.S. 122C-151.2.
- 27 (14) Adopt rules for the implementation of the uniform portal process.
- 28 (15) Except as provided in G.S. 122C-26(4), adopt rules establishing  
29 procedures for waiver of rules adopted by the Secretary under this  
30 Chapter.
- 31 (16) Notify the clerks of superior court of changes in the designation of  
32 State facility regions and of facilities designated under G.S. 122C-252.
- 33 (17) Promote public awareness and understanding of mental health, mental  
34 illness, developmental disabilities, and substance abuse.
- 35 (18) Administer and enforce rules that are conditions of participation for  
36 federal or State financial aid.
- 37 (19) Carry out G.S. 122C-361.
- 38 (20) Monitor the fiscal and administrative practices of area authorities and  
39 county programs to ensure that the programs are accountable to the  
40 State for the management and use of federal and State funds allocated  
41 for mental health, developmental disabilities, and substance abuse  
42 services. The Secretary shall ensure maximum accountability by area  
43 authorities and county programs for rate-setting methodologies,  
44 reimbursement procedures, billing procedures, provider contracting

- procedures, record keeping, documentation, and other matters pertaining to financial management and fiscal accountability. The Secretary shall further ensure that the practices are consistent with professionally accepted accounting and management principles.
- (21) Provide technical assistance, including conflict resolution, to counties in the development and implementation of area authority and county program business plans and other matters, as requested by the county.
- (22) Develop a methodology to be used for calculating county resources to reflect cash and in-kind contributions of the county.
- (23) Adopt rules establishing program evaluation and management of mental health, developmental disabilities, and substance abuse services.
- (24) Adopt rules regarding the requirements of the federal government for grants-in-aid for mental health, developmental disabilities, or substance abuse programs which may be made available to area authorities or county programs or the State. This section shall be liberally construed in order that the State and its citizens may benefit from the grants-in-aid.
- (25) Adopt rules for determining minimally adequate services for purposes of G.S. 122C-124.1 and G.S. 122C-125.
- (26) Establish a process for approving area authorities and county programs to provide services directly in accordance with G.S. 122C-141.
- (27) Sponsor training opportunities in the fields of mental health, developmental disabilities, and substance abuse.
- (28) Enforce the protection of the rights of clients served by State facilities, area authorities, county programs, and providers of public services.
- (29) Adopt rules for the enforcement of the protection of the rights of clients being served by State facilities, area authorities, county programs, and providers of public services.
- (30) Prior to requesting approval to close a State facility under G.S. 122C-181(b):
- a. Notify the Joint Legislative Commission on Governmental Operations, the Joint Legislative Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and members of the General Assembly who represent catchment areas affected by the closure; and
  - b. Present a plan for the closure to the members of the Joint Legislative Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Senate Appropriations Committee on Health and Human Services for their review, advice, and recommendations. The plan shall address specifically how patients will be cared for after closure, how support services to

community-based agencies and outreach services will be continued, and the impact on remaining State facilities. In implementing the plan, the Secretary shall take into consideration the comments and recommendations of the committees to which the plan is presented under this subdivision.

(31) Ensure that the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services is coordinated with the Medicaid State Plan and NC Health Choice.

(32) Implement standard forms, contracts, processes, and procedures to be used by all area authorities and county programs with other public and private service providers. The contracts implemented under this subdivision shall be developed jointly by the Secretary, LMEs, counties and qualified providers. The Secretary shall consult with LMEs, counties and qualified providers regarding the development of any other forms, processes, and procedures. Any document, process procedure developed under this subdivision shall place an obligation upon providers to transmit to LMEs timely client information and outcome data. The Secretary shall also adopt rules regarding what constitutes a clean claim for purposes of billing.

When implementing this subdivision, the Secretary shall balance the need for LMEs to exercise discretion in the discharge of their LME functions with the need of qualified providers for a uniform system of doing business with public entities.

The Secretary shall also identify other areas of standardization that may be implemented without undermining the LME functions of authority of areas authorities and county programs, and identify and eliminate processes and procedures that are duplicative or result in unnecessary paperwork.

(33) Develop and implement five to ten critical performance indicators to be used to hold LMEs accountable for managing the mental health, developmental disabilities, and substance abuse services system. The performance system indicators shall be implemented no later than July 1, 2007."

**SECTION 18.** G.S. 122C-102 reads as rewritten:

**"§ 122C-102. State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.**~~Services; system performance measures.~~

(a) Purpose of State Plan. – The Department shall develop and implement a State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services. The purpose of the State Plan is to provide a strategic template regarding how State and local resources shall be organized and used to provide services. The State Plan shall be issued every three years beginning July 1, 2007. It shall identify specific goals to be achieved by the Department, area authorities, and county programs over a three-year period of time and benchmarks for determining whether progress is being made towards

those goals. It shall also identify data that will be used to measure progress towards the specified goals. In order to increase the ability of the State, area authorities, county programs, private providers, and consumers to successfully implement the goals of the State Plan, the Department shall not adopt or implement policies that are inconsistent with the State Plan without first consulting with the Joint Legislative Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

(b) Content of State Plan. – The State Plan shall include the following:

- (1) Vision and mission of the State Mental Health, Developmental Disabilities, and Substance Abuse Services system.
- (2) ~~Organizational structure of the Department and the divisions of the Department responsible for managing and monitoring mental health, developmental disabilities, and substance abuse services.~~
- (3) Protection of client rights and consumer involvement in planning and management of system services.
- (4) Provision of services to targeted populations, including criteria for identifying targeted populations.
- (5) Compliance with federal mandates in establishing service priorities in mental health, developmental disabilities, and substance abuse.
- (6) Description of the core services that are available to all individuals in order to improve consumer access to mental health, developmental disabilities, and substance abuse services at the local level.
- (7) Service standards for the mental health, developmental disabilities, and substance abuse services system.
- (8) Implementation of the uniform portal process.
- (9) Strategies and schedules for implementing the service plan, including consultation on Medicaid policy with area and county programs, qualified providers, and others as designated by the Secretary, intersystem collaboration, promotion of best practices, technical assistance, outcome-based monitoring, and evaluation.
- (10) A plan for coordination of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services with the Medicaid State Plan, and NC Health Choice.
- (11) A business plan to demonstrate efficient and effective resource management of the mental health, developmental disabilities, and substance abuse services system, including strategies for accountability for non-Medicaid and Medicaid services.
- (12) Strategies and schedules for implementing a phased in plan to eliminate disparities in the allocation of State funding across county programs and area authorities by January 1, 2007, including methods to identify service gaps and to ensure equitable use of State funds to fill those gaps among all counties.

(c) State Performance Measures. – The State Plan shall also include a mechanism for measuring the State's progress towards increased performance on the following matters: access to services, consumer-focused outcomes, individualized planning and

1 supports, promotion of best practices, quality management systems, system efficiency  
2 and effectiveness, and prevention and early intervention. Beginning October 1, 2006,  
3 and every six months thereafter, the Secretary shall report to the General Assembly and  
4 the Joint Legislative Oversight Committee on Mental Health, Developmental  
5 Disabilities, and Substance Abuse Services, on the State's progress in these performance  
6 areas."

7       **SECTION 19.** The North Carolina Department of Health and Human  
8 Services (DHHS) shall review all State Plans for Mental Health, Developmental  
9 Disabilities, and Substance Abuse Services, implemented after July 1, 2001, and before  
10 the effective date of this act and produce a single document that contains a cumulative  
11 statement of all still applicable provisions of those Plans. This cumulative document  
12 shall constitute the State Plan until July 1, 2007.

13       DHHS and the Secretary shall also identify those provisions in  
14 G.S. 122C-112.1, prior State Plans, and directives or communications by the Division of  
15 Mental Health, Developmental Disabilities, and Substance Abuse Services that must be  
16 adopted as administrative rules in order to be enforceable and undertake to adopt those  
17 rules.

18       **SECTION 20.** The Department of Health and Human Services shall reduce  
19 by ten percent (10%) annually the administrative funding for area authorities and county  
20 programs that do not comply with Sections 12 and 13 of this act. The funds withdrawn  
21 for LME administrative functions shall be reallocated to the same LME to be used to  
22 provide mental health, developmental disabilities, and substance abuse services in that  
23 catchment area.

24       **SECTION 21.** The Office of State Personnel shall develop a job  
25 classification for director of an area authority or county program that reflects the skills  
26 required of an individual operating a local management entity. The Office of State  
27 Personnel shall also review the job classifications for area authority and county program  
28 finance officers to determine whether they reflect the skills necessary to manage the  
29 finances of a local management entity. The Commission shall adopt a job classification  
30 for director and any new or revised job classifications for finance officers no later than  
31 December 31, 2006. The requirements of the job classifications shall apply to persons  
32 hired by an area authority or county program on or after January 1, 2007.

33       **SECTION 22.** The Department of Health and Human Services (Department)  
34 shall not reduce below the 2005-2006 level any LME systems management allocations  
35 for State fiscal year 2006-2007. This prohibition shall not apply to reductions in  
36 allocations realized by LME mergers or the failure of LMEs to carry out mergers.

37       The Secretary shall review and revise the existing LME systems management  
38 cost model to provide adequate funds for LMEs to fully implement the functions  
39 outlined in G.S. 122C-115.4(b) as enacted in Section 4 of this act. The Secretary may  
40 reallocate funds based upon a revised cost model, but shall not reduce the overall  
41 amount of LME systems management funding for any particular LME or for all LMEs  
42 without first consulting with the Joint Legislative Committee on Mental Health,  
43 Developmental Disabilities and Substance Abuse Services. Any cost savings realized

1 from the revised cost model shall be reallocated to State-funded services for mental  
2 health, developmental disabilities, and substance abuse services.

3 **SECTION 23.** If the General Assembly appropriates funds for the  
4 Department of Health and Human Services to provide start-up crisis services and funds  
5 the Department to hire a consultant to provide technical assistance to Local  
6 Management Entities (LMEs) to develop and implement crisis services plans under this  
7 section, those funds shall be used as provided in this Section.

8 In addition to any other factors the Department determines are relevant when  
9 selecting the consultant, the Department shall take into consideration whether an  
10 applicant has prior experience evaluating crisis services at a local, regional, and  
11 statewide level, prior experience assisting State and local public agencies develop and  
12 implement crisis services, and the ability to implement its responsibilities within the  
13 time frames established under this act.

14 The consultant shall do all of the following:

- 15 (1) Develop a model for a continuum of crisis services for an urban area  
16 and for a rural area. The model shall outline how an LME, or a group  
17 of LMEs, can develop over a period of time the following components:  
18 24-hour crisis telephone lines, walk-in crisis services, mobile crisis  
19 outreach, crisis respite/residential services, crisis stabilization units,  
20 23-hour beds, regional crisis facilities, inpatient crisis and  
21 transportation. Options for voluntary admissions to a secured facility  
22 shall include at least one service appropriate to address the mental  
23 health, developmental disability, and substance abuse needs of adults,  
24 and the mental health, developmental disability, and substance abuse  
25 needs of children. Options for involuntary commitment to a secured  
26 facility shall include at least one option in addition to admission to a  
27 State facility. These models shall be the first deliverable under the  
28 consultant's contract.
- 29 (2) Review the findings and recommendations regarding crisis services  
30 developed by the Department as part of the long-range plan required  
31 under Section 10.24 of S.L. 2005-276. The consultant shall use this  
32 information and any other information it determines to: identify local  
33 and regional gaps in crisis services; identify options for providing  
34 those services; assist LMEs with developing and implementing a plan  
35 to provide a continuum of crisis services; and maintain transparency  
36 and accountability for the use of funds appropriated under this section.
- 37 (3) Designate appropriate groupings of LMEs for the development of  
38 regional crisis facilities. As used in this act, the term "regional crisis  
39 facility" means a facility-based crisis unit that serves an area that may  
40 be larger than the catchment area of a single LME. The consultant  
41 shall consult with LMEs in determining the grouping of LMEs for  
42 regional crisis facilities. The consultant shall also take into  
43 consideration geographical factors, prior LME groupings and  
44 partnerships, and existing community facilities. Each LME shall

1 participate in the regional grouping established by the consultant in  
2 order to be eligible to receive funding under this section.

3 The consultant shall work with each regional group to determine  
4 whether a facility-based crisis center is needed in that region and  
5 whether one would be financially sustainable on a long-term basis. If  
6 the regional group and the consultant determine that a regional crisis  
7 facility is needed and sustainable, the regional group shall attempt to  
8 secure those services through a community hospital or other  
9 community facility first.

- 10 (4) Assist LMEs to develop a plan to implement a continuum of local  
11 crisis services. The plan shall be consistent with the models developed  
12 by the consultant under subdivision (1) of this subsection and shall  
13 address any gaps in crisis services identified by the study required  
14 under Section 10.24 of S.L. 2005-276. The plan for a continuum of  
15 local crisis services may be combined with a plan for the  
16 implementation of a regional crisis facility.

17 The Department may allocate up to three percent (3%) of the funds  
18 appropriated under Section 1(a) of this section to LMEs to assist them with the cost of  
19 developing their crisis services plans. Each LME shall submit its crisis services plan to  
20 the consultant and to the Department for review no later than March 1, 2007. The plan  
21 shall take into consideration all other sources of funds in addition to the funds  
22 appropriated under this act. The consultant and the Department shall review the plans to  
23 determine whether they meet all the requirements of this section. If the plan meets all  
24 the requirements of this section, the LME shall receive funding to implement the plan.

25 LMEs shall report monthly to the consultant and to the Department regarding  
26 the use of the funds, whether there has been a reduction in the use of State psychiatric  
27 hospitals for acute admissions, and any remaining gaps in local and regional crisis  
28 services. The consultant and the Department shall report quarterly to the Senate  
29 Appropriations Committee on Health and Human Services, the House of  
30 Representatives Appropriations Subcommittee on Health and Human Services, the  
31 Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental  
32 Health, Developmental Disabilities, and Substance Abuse Services regarding each  
33 LME's proposed and actual use of the funds appropriated under this section. The  
34 reporting requirement under this paragraph shall expire July 1, 2008.

35 **SECTION 24.** S.L. 2003-178 reads as rewritten:

36 **"SECTION 1.** The Secretary of Health and Human Services may, upon request of a  
37 phase-one local management entity, waive temporarily the requirements of  
38 G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283  
39 pertaining to initial (first-level) examinations by a physician or eligible psychologist of  
40 individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a), as applicable,  
41 as follows:

- 42 (1) The Secretary has received a request from a phase-one local  
43 management entity to substitute for a physician or eligible  
44 psychologist, a licensed clinical social worker, a masters level



psychiatric nurse, or a masters level certified clinical addictions specialist to conduct the initial (first-level) examinations of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a). The waiver shall be implemented on a pilot-program basis. The request from the local management entity shall be submitted as part of the entity's local business plan and shall specifically describe:

- a. How the purpose of the statutory requirement would be better served by waiving the requirement and substituting the proposed change under the waiver.
- b. How the waiver will enable the local management entity to improve the delivery or management of mental health, developmental disabilities, and substance abuse services.
- c. How the services to be provided by the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist under the waiver are within each of these professional's scope of practice.
- d. How the health, safety, and welfare of individuals will continue to be at least as well protected under the waiver as under the statutory requirement.

(2) The Secretary shall review the request and may approve it upon finding that:

- a. The request meets the requirements of this section.
- b. The request furthers the purposes of State policy under G.S. 122C-2 and mental health, developmental disabilities, and substance abuse services reform.
- c. The request improves the delivery of mental health, developmental disabilities, and substance abuse services in the counties affected by the waiver and also protects the health, safety, and welfare of individuals receiving these services.
- d. The duties and responsibilities performed by the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist are within the individual's scope of practice.

(3) The Secretary shall evaluate the effectiveness, quality, and efficiency of mental health, developmental disabilities, and substance abuse services and protection of health, safety, and welfare under the waiver. The Secretary shall send a report on the evaluation to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substances Abuse Services on or before July 1, 2006.

(4) The waiver granted by the Secretary under this section shall be in effect ~~for a period not to exceed three years, or the period for which the requesting local management entity's business plan is approved, whichever is shorter, until October 1, 2007.~~

- 1 (5) The Secretary may grant a waiver under this section to up to five local  
2 management entities that have been designated as phase-one entities as  
3 of July 1, 2003.
- 4 (6) In no event shall the substitution of a licensed clinical social worker,  
5 masters level psychiatric nurse, or masters level certified clinical  
6 addictions specialist under a waiver granted under this section be  
7 construed as authorization to expand the scope of practice of the  
8 licensed clinical social worker, the masters level psychiatric nurse, or  
9 the masters level certified clinical addictions specialist.
- 10 (7) The Department shall assure that staff performing the duties are  
11 trained and privileged to perform the functions identified in the waiver.  
12 The Department shall involve stakeholders including, but not limited  
13 to, the North Carolina Psychiatric Association, The North Carolina  
14 Nurses Association, National Association of Social Workers, The  
15 North Carolina Substance Abuse Professional Certification Board,  
16 North Carolina Psychological Association, The North Carolina Society  
17 for Clinical Social Work, and the North Carolina Medical Society in  
18 developing required staff competencies.
- 19 (8) The local management entity shall assure that a physician is available  
20 at all times to provide backup support to include telephone  
21 consultation and face-to-face evaluation, if necessary.

22 **SECTION 2.** This act becomes effective July 1, 2003, and expires ~~July 1,~~  
23 ~~2006.~~October 1, 2007."

24 **SECTION 25.** If the General Assembly appropriate funds to the Department  
25 of Health and Human Services to hire one or more independent consultants to assist  
26 with strengthening the State's ability to implement mental health reform, those funds  
27 shall be used to undertake the following tasks:

- 28 (1) Assist DHHS with the strategic planning necessary to develop the  
29 revised State Plan as required under G.S. 122C-102. The State Plan  
30 shall be coordinated with local and regional crisis service plans by area  
31 authorities and county programs.
- 32 (2) Study and make recommendations to increase the capacity of DHHS to  
33 implement system reform successfully and in a manner that maintains  
34 strong management functions by area authorities and county programs  
35 at the local level.
- 36 (3) Assist the Division of Mental Health, Developmental Disabilities, and  
37 Substance Abuse Services to work with area authorities and county  
38 programs to:
- 39 a. Develop and implement five to ten critical performance  
40 indicators to be used to hold area authorities and county  
41 programs accountable for managing the mental health,  
42 developmental disabilities, and substance abuse services  
43 system. The performance system indicators shall be

- 1 implemented no later than six months after the consultant's  
2 contract is awarded and in no event later than July 1, 2007.
- 3 b. Standardize the utilization management functions for Medicaid  
4 and non-Medicaid services and for the review and approval of  
5 person-centered plans.
- 6 c. Develop area authorities' and county programs' expertise to  
7 assume utilization management for Medicaid services. The goal  
8 shall be to have a portion of the area authorities and county  
9 programs assume that function beginning July 1, 2007 and the  
10 remainder to assume the function no later than July 1, 2009.
- 11 d. Develop a standardized operating procedure for area authorities  
12 and county programs.
- 13 e. Implement other uniform procedures for the management  
14 functions of area authorities and county programs.
- 15 (4) Provide technical assistance and oversight to private service providers,  
16 area authorities, and county programs to ensure that best practices and  
17 new services are being delivered with fidelity to the service definition  
18 model.

19 **SECTION 26.** Sections 23 and 25 become effective upon appropriation by  
20 the General Assembly of funds for the implementation of those sections. Nothing in  
21 this act shall require the General Assembly to appropriate funds to implement Sections  
22 25 and 27 of this act. Section 16 of this act shall expire July 1, 2009. Unless otherwise  
23 specified, this act becomes effective July 1, 2006.